Case 2:09-cv-04534-DRH -ETB Document 15 Filed 03/05/10 Page 1 of 3

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

NEXT PROTEINS, INC., a California corporation,

Plaintiff,

-against-

DISTINCT BEVERAGES, INC., a New York corporation; JAKE S. TOWNSON, an individual; NICK WOODHEAD, an individual; USA SPORTS SUPPLEMENTS, INC., a New York corporation; and DOES 1-20, inclusive,

Defendants.

JOINT DISCOVERY PLAN

ECF CASE: 09-CV-4534 DRH ETB

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure (the "Rules") and the Court's Order dated November 6, 2009, counsel for the parties participated in a meeting on February 24, 2010. This meeting was attended by John Wynne, Charles Knull and Linda Dougherty, attorneys for Plaintiff NEXT PROTEINS, INC. ("Plaintiff"), and Michael Orman, attorney for Defendants DISTINCT BEVERAGES, INC. ("Distinct"), JAKE S. TOWNSON, NICK WOODHEAD, and USA SPORT SUPPLEMENTS. INC. (collectively "Defendants").

Counsel hereby jointly report on that meeting.

1. **Factual Summary / Description of the Case**

Plaintiff asserts ownership of U.S. Patent No. 7,205,018 B2 (the "'018 Patent"),entitled "Carbonated Protein Drink and Method of Making." Plaintiff alleges that Defendants are making, using offering for sale and selling a product that infringes the '018 Patent. Defendants deny these claims of infringement.

Defendants assert counterclaims for declaratory judgment and Distinct asserts a counterclaim for tortious interference with prospective advantage, claiming that Plaintiff tortiously interfered with its contractual relationships by asserting the '018 Patent, which Plaintiff knew or should have known was invalid. Plaintiff denies these counterclaims.

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2. Primary Issues

The principal issues involved in this matter include:

(1) construction of the claim language in the '018 Patent;

(2) whether Defendants infringe the '018 Patent;

(3) whether the '018 Patent is invalid; and

(4) whether Plaintiff tortiously interfered with Defendants' contractual relationships.

3. Initial Disclosures

The parties do not contemplate any changes in the form for disclosures under Rule 26(a)(1). The parties propose that the initial disclosures be made on or before March 26, 2010.

4. Discovery Plan

The following joint discovery plan is proposed by the parties:

(1) The deadline to file motions to amend pleadings, including joinder of additional parties is August 30, 2010.

(2) The parties shall serve initial document production demands and interrogatory requests on or before April 15, 2010.

(3) Plai~~ntiff proposes that the deadline to seek approval to file any motion for summary judgment be on January 15, 20~~11. ~~Defendants propose that~~ the deadline to seek approval to file any motion for summary judgment is ~~be on~~ March 15, 2011. ETB MJ

(4) The deadline for the submission of the pre-trial order is May 16, 2011. fact

(5) The deadline to complete ~~fact~~ discovery is February 0, 2011. The deadline to complete expert discovery is April 11, 2011. expert

(6) The parties agree that all "ELECTRONICALLY STORED INFORMATION" (under the meaning given to that term in Rule 34 of the Federal Rules of Civil

Case 2:09-cv-04534-DRH -ETB Document 15 Filed 03/05/10 Page 3 of 3

Procedure) shall be produced in the following format:

- Images will be produced in multi-page Tagged Image File Format ("TIFF"), images named for the Bates number;
- Document-level text will be produced in a central OCR folder named with the beginning Bates number of the given document;
- A document-level load file with standard delimiters (CSV or Concordance) will be produced that lists BegBates, EndBates, and agreed upon metadata fields (e.g. Author, Recipient, Date, etc.);
- An image load file will be supplied in either OPT or LFP format.

(7) The parties anticipate filing a stipulated proposed protective order regarding the confidentiality of documents produced in this matter, and submitting that proposed order to the Court for its approval and entry.

Respectfully Submitted,

DATED: March 5, 2010

By: [signature]

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Attorneys for Defendants

DATED: March 12, 2010

By: [signature]

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So ordered

/s/ E. Thomas Boyle, U.S.M.J.